COMMITTEE REPORT

March 14, 2018

**S. 431**

Introduced by Senator Senn

S. Printed 3/14/18--S.

Read the first time February 16, 2017.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 431) to amend Article 5, Chapter 23, Title 16 of the 1976 Code, relating to miscellaneous offenses involving weapons, by adding Section 16-23-540, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Article 5, Chapter 23, Title 16 of the 1976 Code is amended by adding:

“Section 16‑23‑540. (A) It is unlawful for a person to threaten, solicit another to threaten, or conspire to threaten to cause damage, serious bodily injury, or death to another person or to cause damage to or destroy a building or other real or personal property by use of a firearm or dangerous weapon on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post‑secondary institution or in any publicly owned building.

(B) A person who is charged with violating subsection (A) shall, as a condition of his bond, undergo a mental health evaluation. If the mental health evaluation reveals that the person needs mental health treatment or counseling, the solicitor may refer him to a mental health court or the court shall require him to undergo mental health treatment or counseling by a court-approved mental health professional, mental health facility, or facility operated by the State Department of Mental Health as a part of his sentence.

(C) A person who violates subsection (A):

(1) is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars, imprisoned not more than two years, or both;

(2) that results in damage to or destruction of a building or other real or personal property is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars, imprisoned not more than three years, or both; or

(3) that results in the serious bodily injury or death of another person is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars, imprisoned not more than five years, or both.”

SECTION 2. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on February 16, 2017**

**State Expenditure**

This bill establishes a new offense for a person who threatens, solicits another to threaten, or conspires to threaten to cause damage, injury, or death or who causes damage to or destroys a building or other real or personal property by use of a firearm on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution or in any publicly owned building. Persons convicted of violating these provisions are guilty of a misdemeanor and must be fined not more than $2,000 or imprisoned for not more than two years, or both. Persons who violate these provisions and cause damage to or destruction of a building or other real or personal property are, upon conviction, guilty of a misdemeanor and must be fined not more than $3,000 or imprisoned for not more than three years, or both. Persons who violate these provisions and cause the injury or death of another person are, upon conviction, guilty of a felony and must be fined not more than $5,000 or imprisoned for not more than five years, or both.

**Commission on Prosecution Coordination.** As there is no data on how many offenses may be committed and prosecuted, the commission cannot estimate the in solicitor’s caseloads. However, the commission anticipates solicitors managing any increase within existing resources.

**Commission on Indigent Defense.** As there is no data on how many charges will be brought against indigent persons for the offense, the commission cannot estimate the increase in cases by persons represented by public defenders. However, the commission expects to manage any increase in cases within existing resources.

**Judicial Department.**  The department indicates this bill makes it unlawful for a person to threaten, solicit another to threaten, or conspire to threaten to cause damage, injury, or death or to cause damage to or destroy a building or other real or personal property by use of a firearm on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution or in any publicly owned building. This bill creates a new offense. Therefore, data is not available to determine the additional number of hearings or trials which may be held as a result of this bill. It is anticipated that any additional costs as a result of this bill would be managed within the Judicial Department’s existing resources. However, should this legislation result in a significant number of additional hearings and trials in General Sessions Court, it could result in an increased backlog for the Circuit Court as a whole.

**Department of Corrections.**  This bill creates new misdemeanor and felony offenses for persons who unlawfully threaten, solicit another to threaten, or conspire to threaten to cause damage, injury, or death or who cause damage to or destroy a building or other real or personal property by use of a firearm on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution or in any publicly owned building. Penalties for convictions consist of fines that range from $2,000 to $5,000 and/or prison terms ranging from not more than two years to not more than five years. As there is no existing data on the patterns of arrest, conviction, or sentencing for these offenses, the department cannot determine the expenditure impact of the bill. However, the department does not expect the bill to significantly increase the prison population.

**State Revenue**

The bill creates new misdemeanor and felony offenses punishable by fine, imprisonment, or both. Existing law distributes revenue generated from fines, assessments on fines and surcharges on convictions among the general fund, specific state agencies and programs, and local government. Because this bill creates new crimes for which there is no data to estimate the number of convictions or fines that may be imposed, the revenue impact of this bill on the general fund or other funds cannot be quantified. However, the state’s share of any such revenue is not expected to be significant.

**Local Expenditure**

The bill creates new misdemeanor and felony offenses. Although the number of offences that may occur are unknown, the number is not expected to significantly increase local law enforcement activity. Therefore, the Revenue and Fiscal Affairs Office does not anticipate this bill will have a significant expenditure impact on local government.

**Local Revenue**

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Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND ARTICLE 5, CHAPTER 23, TITLE 16 OF THE 1976 CODE, RELATING TO MISCELLANEOUS OFFENSES INVOLVING WEAPONS, BY ADDING SECTION 16-23-540, TO PROVIDE THAT IT IS UNLAWFUL FOR A PERSON TO THREATEN, SOLICIT ANOTHER TO THREATEN, OR CONSPIRE TO THREATEN TO CAUSE DAMAGE, INJURY, OR DEATH OR TO CAUSE DAMAGE TO OR DESTROY A BUILDING OR OTHER REAL OR PERSONAL PROPERTY BY USE OF A FIREARM ON ANY PREMISES OR PROPERTY OWNED, OPERATED, OR CONTROLLED BY A PRIVATE OR PUBLIC SCHOOL, COLLEGE, UNIVERSITY, TECHNICAL COLLEGE, OR OTHER POST‑SECONDARY INSTITUTION OR IN ANY PUBLICLY OWNED BUILDING; TO PROVIDE THAT A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR; TO PROVIDE THAT A PERSON WHO VIOLATES THIS SECTION RESULTING IN PROPERTY DAMAGE IS GUILTY OF A MISDEMEANOR; AND TO PROVIDE THAT A PERSON WHO VIOLATES THIS SECTION BY CAUSING INJURY OR DEATH IS GUILTY OF A FELONY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 5, Chapter 23, Title 16 of the 1976 Code is amended by adding:

“Section 16‑23‑540. (A) It is unlawful for a person to threaten, solicit another to threaten, or conspire to threaten to cause damage, injury, or death or to cause damage to or destroy a building or other real or personal property by use of a firearm on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post‑secondary institution or in any publicly owned building.

(B) A person who violates subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars, imprisoned not more than two years, or both.

(C) A person who violates subsection (A) resulting in damage to or destruction of a building or other real or personal property is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars, imprisoned not more than three years, or both.

(D) A person who violates subsection (A) resulting in the injury or death of another person is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars, imprisoned not more than five years, or both.”

SECTION 2. This act takes effect upon approval by the Governor.

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